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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/820,915	03/30/2001	Takashi Sumada	0505-0798P	3432
2292	7590	10/05/2005	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			BROWN, VERNAL U	
			ART UNIT	PAPER NUMBER
			2635	

DATE MAILED: 10/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/820,915

Applicant(s)

SUMADA ET AL.

Examiner

Vernal U. Brown

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-9 and 19-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-9 and 19-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

This action is responsive to communication filed on July 18, 2005.

Response to Amendment

The examiner has acknowledged the amendment of claims 1-3, 5-8, and the addition of claims 19-29. The applicant claim for foreign priority is acknowledge in the attached office action summary form (PTO-326).

Response to Arguments

Regarding applicant's argument regarding the reference of Joao teaching the use of electrical dead bolt mechanism on page 11, the reference of Joao is teaches the use of a electrical locking device in conjunction with other opening mechanism to gain access to the trunk of the vehicle (col. 27 lines 56-62) and the trunk electronic locking and opening mechanism is also applicable to the motorcycle trunk (col. 21 lines 14-24). Joao is not limiting the locking mechanism to a dead bolt locking mechanism but is rather including the electrical dead bolt locking mechanism as a suitable locking means for the vehicle trunk. Joao teaches a radio signal receiving unit (3) for receiving signal from the transmitter (col. 23 lines 35-40).

Regarding applicant's argument regarding the reference of Kusunoki, the reference of Kusunoki teaches the locking and unlocking of the trunk is integrated into the keyless entry system (col. 3 lines 1-6) and the remote control (10) clearly shows a switch (S2) for controlling the unlocking/locking of the trunk.

Regarding applicant's argument regarding locking and unlocking button and page 14, the reference of Kusunoki teaches a button the use of a button on the remote control to perform the locking and unlocking of the trunk. The use of separate button for locking and unlocking of the

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trunk represent a reversal of parts. It would have been obvious to one of ordinary skill in the art to have separate buttons for locking and unlocking of the vehicle trunk, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. In re Einstein, 8 USPQ 167.

Regarding applicant's argument regarding the unlocking and popping up of the trunk. The reference of Yamura et al. teaches a button on the transmitter for remotely unlocking and opening of the trunk (col. 10 lines 25-26). The opening of the trunk remotely is the function equivalent to the popping –up of the trunk.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morinaka et al. U.S Patent 5025883 in view of Joao U.S Patent 6542076 in view of Yamaura et al. US Patent 6292107 in view of McMahon U.S Patent 3908168 and further in view of Hesker U.S Patent 6351242.

Regarding claims 1 and 29, Morinaka et al. teaches a trunk assembly for a saddle type vehicle comprising at least one trunk (figure 1);

A lid mounted on the trunk to move from an open position to a closed position and an opening mechanism for opening the trunk (col. 3 lines 3 lines 51-55). Morinaka et al. is however

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silent on teaching the trunk opening mechanism is remote controlled and have a radio signal receiving unit disposed inside a projection centrally located on the lid. Joao in an art related security apparatus invention teaches the use of electronic locking mechanism in conjunction with the trunk opening mechanism for vehicle trunks (col. 27 lines 56-62) and (col. 22 lines 45-54) and the trunk electronic locking and opening mechanism is also applicable to the motorcycle trunk (col. 21 lines 14-24). Joao teaches a radio signal receiving unit (3) for receiving signal from the transmitter (col. 23 lines 35-40). The opening (popping –up) of a trunk using a remote control is evidenced by Yamaura et al. (col. 10 lines 20-26). Morinaka et al. in view Joao in view of Yamaura et al. is however silent on teaching the radio receiving trunk assembly is mountable in a projection formed outside on top of the rear trunk. McMahon in an art related radio transmission system teaches a radio receiving circuit (12) mounted in the rear of the motorcycle in the position of the trunk (figure 1) but is also silent on teaching the radio receiving unit is disposed inside the projection. The reference of Hesker teaches mounting a radio receiving unit in a trunk lid or shaped adaptation for accumulating the radio receiver unit (col. 4 lines 29-32) in order to protect the receiver from damage.

It would have been obvious to one of ordinary skill in the art for the radio receiving trunk assembly is mountable in a projection formed outside on top of the rear trunk in Morinaka et al. in view Joao in view of Yamaura et al. as evidenced by McMahon because. Morinaka et al. in view Joao in view of Yamaura et al. suggests a radio receiving trunk and McMahon teaching the mounting of a radio receiving circuit on a motorcycle in the location of the trunk. One skilled in the art further recognizes that the placement of the radio receiving circuit on top of the trunk

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represents the highest point which is the location for the placement of a radio receiving circuit for the best reception of signal. Hesker teaches mounting a radio receiving unit in a trunk lid or shaped adaptation for accumulating the radio receiver unit in order to protect the receiver from damage.

Regarding claim 2, Morinaka et al. in an art related Motorcycle with trunk invention teaches a motor vehicle having a rear trunks and a pair of side trunks (col. 1 lines 48-50).

Regarding claim 3, Morinaka et al. teaches an opening/closing lever (shaft) provided in the central trunk (col. 5 line 60-col. 6 line 6). The central trunk (24) as disclosed by Morinka et al. is in the same position as the rear trunk (20C) as disclosed by the applicant, therefore the opening/closing lever as taught by Morinaka et al. evidenced the location of the lever in the rear trunk.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Morinaka et al. U.S Patent 5025883 in view of Joao U.S Patent 6542076 in view of Yamaura et al. US Patent 6292107 in view of McMahon U.S Patent 3908168 and further in view of Hesker U.S Patent 6351242.

Regarding claim 5, Morinaka et al. in view of Joao in view of Yamaura et al. in view of McMahon teaches a radio receiving trunk as discuss in the response to claim 1 above but is however silent on teaching a radio receiving trunk mountable on a rear portion of a vehicle body. Hesker in an art related vehicle remote invention teaches mounting a radio receiving unit in a

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trunk lid or shaped adaptation for accumulating the radio receiver unit (col. 4 lines 29-32) in order to protect the receiver from damage.

It would have been obvious to one of ordinary skill in the art to mount the radio receiving assembly in a rear position of the vehicle body and the radio receiving trunk assembly having a projection formed on top of the rear trunk in Morinaka et al. in view of Joao in view of Yamaura et al. in view of McMahon as evidenced by Hesker because Morinaka et al. in view of Yamaura et al. in view of Joao in view of McMahon suggests a radio receiving trunk mounted in the rear of the vehicle and Hesker teaches mounting a radio receiving unit in a trunk lid or shaped adaptation for accumulating the radio receiver unit in order to protect the receiver from damage.

Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morinaka et al. U.S Patent 5025883 in view of Joao U.S Patent 6542076 in view of McMahon U.S Patent 3908168 in view of Hesker U.S Patent 6351242 in view of Yamaura et al. U.S Patent 6292107 and further in view of Kusunoki U.S Patent 5763957.

Regarding claims 6 -7, Morinaka et al. in view of Joao in view of McMahon in view of Heska teaches a radio receiving trunk (see response to claim 1) but is however silent on teaching a switch for detecting the trunk lid is open or closed and outputting the result to the radio signal receiving unit and a trunk catcher to pop up the lid simultaneously with unlocking the lid. Yamaura et al. in an art related Keyless entry system teaches the locking and locking of a trunk by a lock mechanism (col. 10 lines 20-26) and a trunk open function for remotely opening of the

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trunk (col. 10 lines 25-26). A switch for detecting whether a trunk lid is open or closed is commonly used in motor vehicles as evidenced by Kusunoki (col. 3 lines 47-57).

It would have been obvious to one of ordinary skill in the art to have a switch for detecting the trunk lid is open or closed and outputting the result to the radio signal receiving unit and a trunk catcher to pop up the lid simultaneously with unlocking the lid in Morinaka et al. in view of Joao in view of McMahon in view of Heska as evidenced by Yamaura et al. in view of Kusunoki because Morinaka et al. in view of Joao in view of McMahon suggests a radio receiving trunk and Yamaura et al. teaches the locking and unlocking of a trunk by a lock mechanism and a trunk catcher to pop up the trunk and a switch for detecting whether a trunk lid is open or closed is commonly used in motor vehicles as evidenced by Kusunoki.

Claims 8-9 and 19-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kusunoki U.S Patent 5763957 in view of Hesker U.S Patent 6351242 and further in view of McMahon U.S Patent 3908168.

Regarding claims 8 and 19-28, Kusunoki teaches a remote controller for a remote control trunk assembly (figure 1), the trunk assembly including at least one lid, an opening/closing mechanism for permitting and rejecting the opening and closing of each of the lid (col. 3 lines 25-32), a radio signal receiving unit (6A) which receives a radio signal for remotely operating the opening/closing mechanism (col. 3 lines 24-25), a locking/unlocking button for locking/unlocking the trunk (col. 3 lines 47-57) and a pop-up button (5) for unlocking and popping-up the trunk (col. 4 line 1). The key actuator is provided by the CPU (6C). Kusunoki is however silent on teaching the radio receiving unit is disposed on top of the trunk. Hesker in an art related vehicle remote invention teaches mounting a radio receiving unit in a trunk lid or

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shaped adaptation for accumulating the radio receiver unit (col. 4 lines 29-32) in order to protect the receiver from damage. McMahon in an art related radio transmission system also teaches a radio receiving circuit (12) mounted in the rear of the motorcycle in the position of the trunk (figure 1). One skilled in the art also recognizes the determination of which trunk receive the unlocking button compared to receiving the open the trunk is based upon whether or not the trunk is equipped with the remote controlled locking mechanism or the the remote opening mechanism.

It would have been obvious to one of ordinary skill in the art to disposed the radio receiving unit on top of the trunk in Kusumoki as evidenced by Hesker because Kusumoki suggests a remote controller for controlling a trunk assembly and Hesker teaches a radio receiving unit in a trunk lid or shaped adaptation for accumulating the radio receiver unit and Morinaka et al. in view Joao suggests a radio receiving trunk and McMahon teaching the mounting of a radio receiving circuit on a motorcycle in the location of the trunk. One skilled in the art further recognizes that the placement of the radio receiving circuit on top of the trunk represents the highest point which is the location for the placement of a radio receiving circuit for the best reception of signal.

Regarding claim 9, Kusumoki teaches transmitting a radio signal to the receiving unit (col. 3 lines 12-21) and a switch (5) to control the actuator.

Conclusion

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vernal U. Brown whose telephone number is 571-272-3060. The examiner can normally be reached on 8:30-7:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Horabik can be reached on 571-272-3068. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Vernal Brown
September 28, 2005



BRIAN ZIMMERMAN
PRIMARY EXAMINER